

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

IVAN M. SUZMAN,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 2:05-CV-192-GZS
)	
ADOLPH CRISP,)	
<i>et al.</i> ,)	
)	
Defendants.)	

ORDER ON OBJECTION TO FINAL PRETRIAL ORDER

Presently before the Court is Defendant Rayella Booton-Brown's Objection to the Final Pretrial Order (Docket # 100). Via this Objection, Defendant Booton-Brown, pro se, claims that she did not receive notice of the February 8, 2007 Final Pretrial Conference and, on that basis, asks this Court to amend the Final Pretrial Order so that she may present witnesses and exhibits. The Court hereby DENIES the Objection.

The Court notes that Booton-Brown's Objection is substantially the same and rests on the same reasoning as Defendant Crisp's Objection (Docket # 93), which this Court previously denied via an Order dated February 27, 2007 (Docket # 99). As Defendant Booton-Brown's Objection is based on the same argument as an objection previously denied, the Court will only briefly state its reasons for denying the objection.

First, the Court finds that Defendant Booton-Brown's Objection is untimely. See Fed. R. Civ. P. 72(a). The Final Pretrial Conference was held on February 8, 2007 and the Report of Final Pretrial Conference and Order was filed by the Court on February 9, 2007 (Docket # 90). Booton-Brown received actual notice of the Pretrial Conference by February 10, 2007, if not before, via Plaintiff's Reply to Defendant Crisp's Objection to Motion for Entry of Judgment by Default (Docket # 97). (See the United States Postal Service Track and Confirm result submitted by Plaintiff (Docket # 97-3) (indicating that R Brown signed for the item on February 10, 2007).) Given that this Objection was filed on March 5, 2007, the objection to the Pretrial Conference and Order is in excess of the ten day period allotted by Federal Rule of Civil Procedure 72(a).

In her Objection, Defendant Booton-Brown claims that she failed to receive notice because as of January 12, 2007 she has resided at an address in Kansas. The Court notes, however, that Defendant Booton-Brown actually received Plaintiff's Reply to Defendant Crisp's Objection to Motion for Entry of Judgment by Default (Docket # 97) at this different address on February 10, 2007. Prior to her relocation to Kansas, Defendant Booton-Brown was served on January 10, 2006 and thereafter received a copy of the Court's June 21, 2006 Scheduling Order (Docket # 44), which indicated that this matter would be ready for trial on March 5, 2007. In addition, Defendant Booton-Brown was mailed notice of the final pretrial conference via U.S. Mail from the Clerk's Office on both January 4, 2007 and January 10, 2007 to her address on record. (See the Notice of Electronic Filing for Docket #s 80, 81 & 82 (all of which indicate that notice was delivered to Rayella Booton-Brown at 2433 North Cheyenne Ave., Tulsa, OK 74106).) In short, the Court finds that Defendant Booton-Brown was provided with adequate notice of these Court proceedings. Moreover, the burden is upon Booton-Brown to notify the Court of any changes to her address and any delay in notification was caused by Booton-Brown's failure to timely notify the Court of her relocation.

In light of Defendant's failure to appear at the Final Pretrial Conference or contact the Court in advance of the conference, the Court believes the Final Pretrial Order properly found that Defendant has waived any right to object to the Final Pretrial Order and that Defendant should be barred from introducing any evidence (in the form of witnesses or exhibits) beyond that identified in Plaintiff's Amended Pretrial Memorandum.

Therefore, if Defendant Booton-Brown appears at trial on March 20, 2007, she will be limited to the universe of evidence previously identified in Plaintiff's Amended Pretrial Memorandum. Defendant Booton-Brown shall also comply with the March 13, 2007 trial brief deadline contained in the Final Pretrial Order.

SO ORDERED.

/s/ George Z. Singal
United States Chief District Judge

Dated this 6th day of March 2007.